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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,296	12/19/2001	Cor't Hooft	F7584(V)	3402

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UNILEVER  
PATENT DEPARTMENT  
45 RIVER ROAD  
EDGEWATER, NJ 07020

EXAMINER

PADEN, CAROLYN A

ART UNIT PAPER NUMBER

1761

DATE MAILED: 11/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/025,296

Applicant(s)

T HOOFT ET AL.

Examiner

Carolyn A Paden

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-12 is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3102
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Zmarlicki (Polish abstract XP-002166914).

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Mayer Lucas (English Dialog abstract ).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wieske (0,253,429) in view of Hollo (JAOCS 1993).

Wieske discloses phosphatide-containing compositions that are used in margarine and are anti-spattering agents. In examples 1-3, (page 5, column 2), soybean lecithin was fractionated by solvent

extraction. Then the alcohol-insoluble fraction was subsequently hydrolyzed under conditions favoring hydrolysis of phosphatidic acid and phosphatidylethanolamine in favor of phosphatidylcholine. The hydrolysis is achieved utilizing phospholipase A2 at a pH of 7.5-8 at 60C for 4 hours. The final product is shown at table 1. This composition was then mixed with the alcohol-soluble fraction of soybean lecithin in a weight ratio of 2:1 and 1:2. This formulation was then used in the manufacture of margarine. The margarine formulation is shown at the bottom of page 5 and the top of page 6 to contain up to 82 wt% soybean oil, 0.5-1 wt% phospholipid and up to 18 wt% water. Claim 1 appears to differ from the reference in the recitation of the use of sunflower lecithin. Hollo teaches that sunflower lecithin has surface activity properties that are similar to soybean lecithin. The reference goes on to provide for hydrolysis and fractionation of sunflower lecithin to overcome any handling problems associated with sunflower lecithin. It would have been obvious to one of ordinary skill in the art to utilize the sunflower lecithin of Hollo in the margarine of Wieske (0,253,429). In this case the secondary reference teaches that each of these lecithin sources have similar properties and thus could have been substituted as equivalent

sources of vegetable lecithin. This is particularly so since Hollo provides for the production of food-grade sunflower lecithin in the 1993 time period. It is appreciated that the extent of hydrolysis is not mentioned in the reference. But lecithin in Wieske is used to limit spattering of margarine. So no unobvious or unexpected result is seen to flow from the recitation of the degree of hydrolysis of the lecithin that is set forth in claims 3-5.

Claims 9-12 are allowed.

None of the reference show degumming and hydrolyzing sunflower oil so that the resulting product has an acid value like that set forth in claim 9. The reference to Smiles (JAOCS 1988) shows degumming without showing hydrolysis to a specific acid value. The reference to Wieske shows hydrolysis of soybean lecithin without showing sunflower lecithin, a degumming step or an acid value.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn A Paden whose telephone number is 703-308-3294. The examiner can normally be reached on Monday to Friday from 7 am to 3:30 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano, can be

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reached on (703) 308-3959. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7718.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

  
CAROLYN PADEN 10-17-03  
PRIMARY EXAMINER  
GROUP 4000 1761